



Combating Sexual Abuse of Children in Tourism

EQUATIONS
December 2008

Prolonged sex abuse

- Jakob Spalti has a house in Kerala near Chowara.
- Spalti has a group of around 24 boys (aged 13-26)
- These boys visit him at his home on every Sunday or at some evening per week to play cricket or cards
- Spalti give these boys and their family money, buys motor bikes and take them out for few day
- Pretends to have massages from young boys; during the massage he tried to have sex with these boys



Investigation

- EQUATIONS, Kerala Mahila Samakhya Society and Indian Express -confirmed
- A complaint of sex abuse was lodged by four boys before the Commissioner
- Another complaint was lodged by Kerala Mahila Samakhya Society and EQUATIONS to the Commissioner based on the findings
- The Commissioner directed the CI, Vizhinjam to take over this complaint
- Passport of Spalti was seized by Police
- 3 children retracted from their earlier statement due to unknown reason



Law in favour of the accused?

- The arrest has not taken place till date
- Jakob had secured anticipatory bail
- PP of sessions court has orally informed not to arrest the accused
- The court will send the summons to the victim for giving deposition
- Pressure to the Tourism, Social Welfare Department and in turn to the judicial magistrate to take the deposition of the victim at the earliest
- Granted of normal bail with the conditions that should surrender before Judicial First Class Magistrate Court, if arrested the police are directed to release him on bail extending a bond for Rs.25000/-.



We now learn that Spalti has left the Country & come back!



- What is the role of the Judiciary- visa expired
- No information to the Investigating office,
- What is the role of the Public Prosecutor
- No information to the civil society organization fighting
- Lack of knowledge of trial proceedings-complainant
- Delay in Preparing the Charge Sheet
- Same trends with other known violators, Australian, British etc



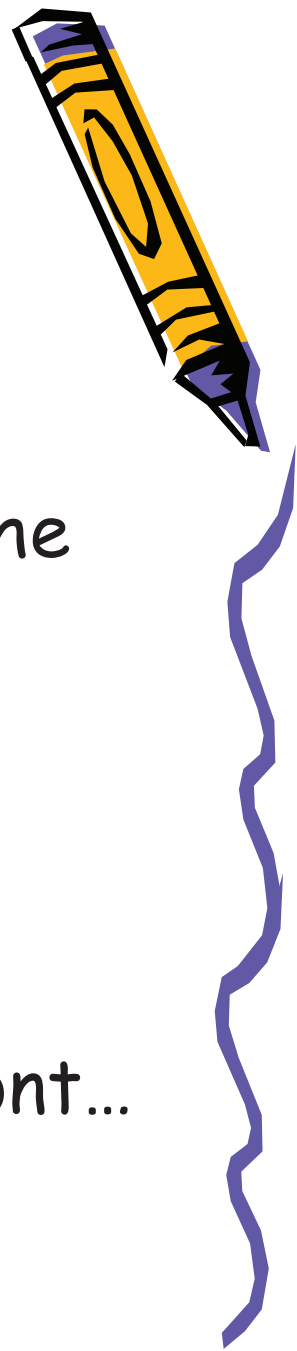
Lack of relevant laws



- No clear definitions of a child
- No clear definition of child abuse, child trafficking, child labour, child prostitution with regard to tourism
- No definition and law on child pornography, child sex tourism.
- Clear mechanisms of reporting of suspected cases do not exist
- No Children's Court



Areas of Concern in the Existing Laws

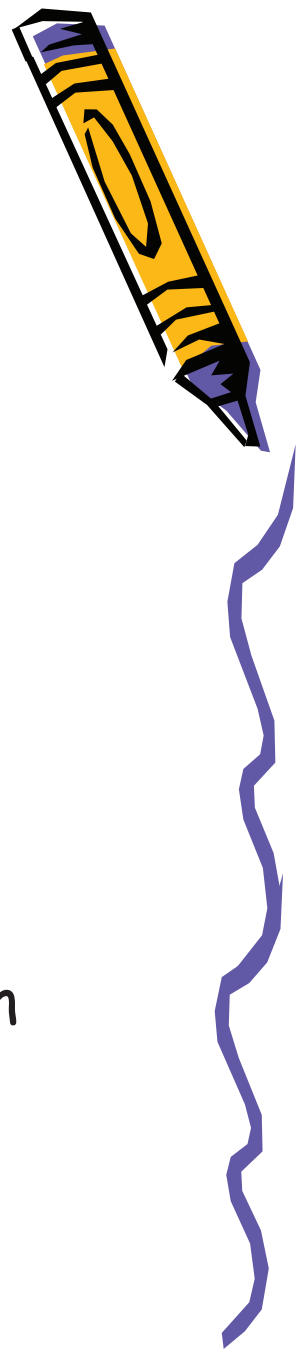


- Recording of Child's statements
- Need for a support person to be with the Child before the magistrate
- Repeated questioning and unnecessary delays
- Failure to use the language of the child
- Misinterpretation of facts

Cont...



Areas of Concern in the Existing Laws



- Improperly prepared charge sheets
- Failure to use all the relevant sections
- Failure to furnish crucial evidence during the filing of the charge sheet
- Delays in preparing the charge sheet
- PP access to child victims and witnesses
- Lack of knowledge of trials proceedings
- Use of child friendly procedures- Guidelines in Sakshi Case



First and only State Act-The Goa Children's Act 2003



- Extensive advocacy and lobbying of Civil Society Groups
- Provision to address child sexual abuse also in the context of tourism
- Definition and punishment prescribed for sexual offences
- Clear definition on child pornography, child trafficking
- Children staying with unrelated adults- to be questioned
- Children's safety- onus on hotels/establishments
- Responsibility of photo studios/Film processing units



Goa Children's Act 2003

- Unlawful activity- facilitating the sale and abuse of children
- Children use cyber cafes with adult escort
- Registration and monitoring of children's home
- The setting up of the victims Assistance Units
- Sensitization and training Programmes
- Better investigation techniques
- Evolving a child friendly tourism code
- Setting up of a Children's Court



Amendments in the GCA- areas of Concern



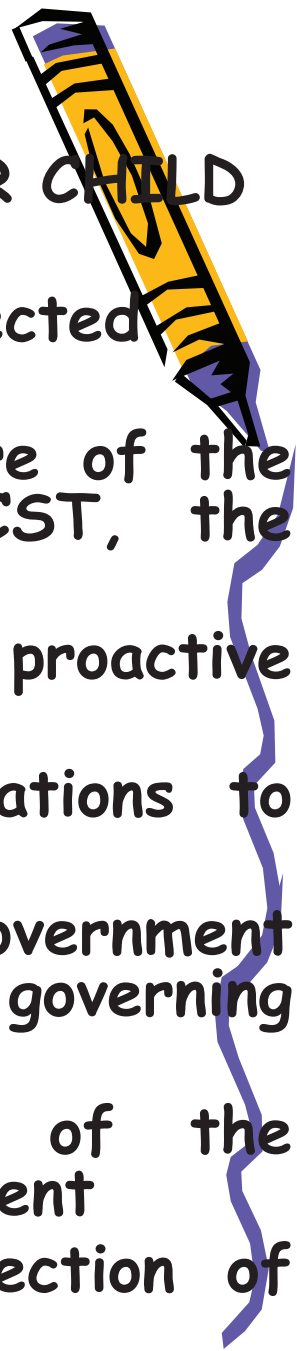
- Within two years of its enactment this Act was amended in 2005.
- The amendment diluted the timelines for implementation with out adequate rationale and omitted few important sections from the Act.
- One of the important Section 8 (11) which stated that offences in case of tourism related child sexual abuse shall be non-bailable offence under CrPC was repealed.
- This makes the Act virtually toothless in relation to sexual exploitation of children by tourist in Goa.



What we Demand

DECLARE Kerala ZERO TOLERANCE ZONE FOR CHILD ABUSE IN TOURISM

- To increase the community awareness in affected areas on 'CST and risks factors'
- To ensure that all tourists are made aware of the Kerala government's *zero tolerance* of CST, the relevant laws and penalties
- To involve private tourism sector to play a proactive roles in combating CST
- To bring in new policies, laws and regulations to combat CST
- To maximize the coordination with police, government departments, social authorities, local governing institutions and NGOs in tourist areas
- To maximize the management capacity of the Department of Tourism for Project Management
Getting up of State Commission for Protection of Children



Kerala Children's Code Bill



- Kerala Law reform commission
- Attempt has been made to propose a complete and comprehensive code
- containing laws applicable to children including juveniles and children in conflict with law
- To protect them from all forms of discrimination, exploitation, cruelty, abuse, including sex abuse
- the Kerala State Commission for Children
- Kerala State Children's Fund
- Free and compulsory education upto Higher Secondary Grade

